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TRANSCRIPT OF PROCEEDINGS

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In Applications of:

TOCCOA FALLS COLLEGE  
Belton, South Carolina

NAZARETH COMMUNICATIONS, INC.  
Williamston, South Carolina

MM DOCKET NO 93-128

DATE OF CONFERENCE: July 7, 1993

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FREE STATE REPORTING, INC.  
Court Reporting Depositions  
D.C. Area (301) 261-1902  
Balt. & Annap. (410) 974-0947

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**FEDERAL COMMUNICATIONS COMMISSION**  
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NAZARETH COMMUNICATIONS, INC. )  
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The above-entitled matter come on for pre-hearing conference pursuant to Notice before Judge Richard L. Sippel, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 4, on Wednesday, July 7, 1993, at 9:05 a.m.

**APPEARANCES:**

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On behalf of Nazareth Communications, Inc.:

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## I N D E X

	Page No.
1	
2	
3	
4	Opening Statements By Judge Sippel 3
5	Statement by Mr. Yelverton 3
6	Statement by Ms. Laden 6
7	Statement by Mr. May 10
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	CONFERENCE BEGAN: 9:05 a.m. CONFERENCE ENDED: 9:36 a.m.

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## P R O C E E D I N G S

JUDGE SIPPEL: This is our first prehearing conference in the -- I'm referring to this as the Belton, South Carolina case, although I do know that there are two, two cities that have been indicated by the competing applicants. Let me first take appearances of counsel. Note your appearances, please. First, on behalf of the Mass Media Bureau?

MS. LADEN: Paulette Laden.

JUDGE SIPPEL: Okay. And on behalf of -- am I pronouncing this right -- Toccoa Falls College?

MR. YELVERTON: That's correct, Your Honor. Stephen Yelverton and John Hunter of the law firm of McNair and Sanford.

JUDGE SIPPEL: All right. And on behalf of Nazareth, Nazareth Communications, Inc.?

MR. MAY: Colby M. May on behalf of May and Dunne, Chartered.

JUDGE SIPPEL: All right. Now, what I'm missing is -- as a preliminary matter, what I'm missing is an Affidavit of Publication for Toccoa Falls College.

MR. YELVERTON: Your Honor. I have an affidavit with

1 third will be on July 14th. And what our intention was, as  
2 soon as we get an affidavit from the July 7th and July 14th  
3 publication, to file that with Your Honor, but I can certainly  
4 submit the affidavit we have for June 30th today.

5 JUDGE SIPPEL: All right. Well, that's all right.  
6 What I'm going to do is set a filing date of July 23rd for the  
7 completion of publication.

8 MR. YELVERTON: Thank you, Your Honor.

9 JUDGE SIPPEL: Now, I have, I have reviewed the  
10 preconference report which is very helpful. Can you tell me  
11 what is the status of settlement now, and when I say  
12 settlement I include in that any discussions or where you  
13 might be on a share-time arrangement.

14 MR. YELVERTON: Your Honor, counsel for the parties  
15 have discussed a share-time and that did not, you know, result  
16 in any agreement. There is some prospect for the principles  
17 to discuss settlement with each other, so it's certainly  
18 something the door has not been closed on.

19 JUDGE SIPPEL: What about -- well, those are really  
20 two concepts. What about the share-time? There's a share-  
21 time issue in the case. Is there -- is -- have the parties --  
22 are the parties continuing to consider or have they ruled out  
23 or have they somehow or other firmed up any position with  
24 respect to whether or not they can participate in this  
25 frequency or on this station on a share-time arrangement?

1           MR. YELVERTON: Your Honor, it appears not to be  
2 practical. The parties have not completely shut the door on  
3 that, but I would think that a settlement, if there is any,  
4 would be along different lines.

5           JUDGE SIPPEL: Thank you. That's what I wanted to  
6 know. Ms. Laden, does the Bureau have anything to add on  
7 that, I mean, in terms of what might be -- what might  
8 facilitate a settlement of this case?

9           MS. LADEN: No, Your Honor.

10          JUDGE SIPPEL: No, okay. Continue to talk. That's  
11 all I can say. But we will have a -- I will have to make --  
12 assuming that we do go to hearing on this, I am going to have  
13 to make findings on the, on the added issue of a share-time  
14 arrangement, so there's going to have to be some, some  
15 testimony, some evidence with respect to that, you know, that  
16 it has been addressed and, as you pointed out, Mr. Hunter,  
17 that you don't think that it's, you don't think that it's  
18 feasible at this point.

19          MR. YELVERTON: Yes. I'm Mr. Yelverton.

1 | assessment of the parties, but we don't want to shut the door  
2 | on it completely. I mean, it would be revisited in any  
3 | settlement negotiations.

4 | JUDGE SIPPEL: All right. Well, I want to be -- I'm  
5 | focusing right now on the evidence at the hearing. There's  
6 | going to have to be -- it's going to have to be addressed in  
7 | some way, shape or form because I'm going to have to make  
8 | findings on it. All right. The engineer -- what about the  
9 | status of the engineer?

10 | MR. YELVERTON: Your Honor, we've -- the parties  
11 | have agreed to retain an engineer, du Treil, Rackley &  
12 | Lundine, and, and that's in progress as far as the preparation  
13 | of the joint engineering.

14 | JUDGE SIPPEL: All right. Now, on my Prehearing  
15 | Conference Order I've set a date of August 3 for the  
16 | preliminary hearing data to go to the Bureau counsel. Does  
17 | that give you enough time, Ms. Laden, in light of the  
18 | September 28 hearing date?

19 | MS. LADEN: Yes, Your Honor, it gives us enough time  
20 | if the date is complied with.

21 | JUDGE SIPPEL: All right.

22 | MS. LADEN: I would think at this point that I don't  
23 | see any reason why we couldn't have the engineering. If they  
24 | have, if they have hired an engineer, I don't foresee any  
25 | problem with it, but usually we're very flexible on that date.

1 In this case I'm going to be out of the country on the hearing  
2 date, so it needs to be processed before, so in this case we  
3 have to pretty much stick to that date.

4 JUDGE SIPPEL: All right. Well, there'll be  
5 somebody else? There'll be another attorney from the Bureau?

6 MS. LADEN: There will be another attorney here,  
7 that's right --

8 JUDGE SIPPEL: Yeah, okay.

9 MS. LADEN: -- but I would initiate the processing  
10 of the engineering portion.

11 JUDGE SIPPEL: All right. Well, what about the  
12 August 3rd date? I'm expecting that that's going to be  
13 complied with.

14 MR. YELVERTON: Your Honor, I think Mr. Dunne was in  
15 direct contact with the engineer and Mr. Dunne indicated that  
16 that would be no -- the engineer had no problem with that  
17 date.

18 MR. MAY: Your Honor, I can confirm that Mr. Dunne  
19 did communicate with the engineers and they've indicated that  
20 August 3 would not be a problem for the joint engineering  
21 exhibit.

22 JUDGE SIPPEL: All right. Well, I'm assuming that  
23 that's -- that the Bureau will have all that it needs on  
24 August 3rd with respect to engineering.

25 MS. LADEN: Also, Your Honor, this is a firm that we



1 do a lot of business with and so we don't anticipate any, any  
2 problems.

3 JUDGE SIPPEL: All right.

4 MS. LADEN: That is to say, they are quite familiar  
5 with our requirements.

6 JUDGE SIPPEL: All right. That's -- well, that's  
7 good to hear also. All right. Then that -- there's only two  
8 depositions that were identified in the, in the preconference  
9 report. Where are they going to be held? Has that been  
10 agreed to?

11 MR. YELVERTON: Yes, Your --

12 MR. MAY: I believe it has, Your Honor.

13 MR. YELVERTON: Yes. Depositions are going to be in  
14 Washington, D.C. and it's the last week of July. I believe  
15 that week is the 26th.

16 JUDGE SIPPEL: All right. Well, I'll, I'll accept  
17 that. The 26th is the first Monday of the last week in July.

18 MR. YELVERTON: Yes, that's the day that the  
19 depositions start. We'll have them on Monday and Tuesday.

20 JUDGE SIPPEL: All right. The Bureau's counsel is  
21 aware of that?

22 MS. LADEN: Yes, Your Honor. We won't be  
23 participating.

24 JUDGE SIPPEL: All right. You made mention in the  
25 report to 307(b), 307(b) evidence. Maybe Mr. Yelverton --

1 | could you just give me just a brief description of the nature  
2 | of the 307(b) evidence that the parties expect to introduce?

3 |           MR. YELVERTON: Yes, Your Honor. I discussed that  
4 | with Mr. Dunne and this would go to community attributes, size  
5 | of the community, lack of other transmission services.

6 |           JUDGE SIPPEL: How do you intend to -- well, how do  
7 | you intend to offer the evidence? I mean, what's going to be  
8 | the form of the evidence in which you're going to make these  
9 | points?

10 |           MR. YELVERTON: This would be in the nature of, of  
11 | written evidence. I don't think the testimony would be that  
12 | productive.

13 |           JUDGE SIPPEL: Will these be affidavits from  
14 | knowledgeable people or what, what are we talking about?

15 |           MR. YELVERTON: A lot of this would be of objective  
16 | nature of the size of the community, characteristics of the  
17 | community.

18 |           JUDGE SIPPEL: Any way that this can be stipulated  
19 | to? I mean, I know you've got separate communities.

20 |           MR. YELVERTON: I think it could, Your Honor. I do  
21 | not anticipate --

22 |           JUDGE SIPPEL: Some of it anyway, maybe not --

23 |           MR. YELVERTON: Yeah.

24 |           JUDGE SIPPEL: -- maybe not ever bit of it, but most  
25 | of it?

1           MR. YELVERTON: Yes. I think, yeah, most of it  
2 definitely, yeah, could be stipulated to because it's, it's  
3 objective evidence. You know, what's there is what's there.

4           JUDGE SIPPEL: Mr. Dunne? I'm sorry, Mr. May?

5           MR. MAY: Yeah. I can confirm that as well. Yeah.

1 mass media available in a particular community.

2 JUDGE SIPPEL: Like the number of newspapers?

3 MR. MAY: Correct.

4 JUDGE SIPPEL: Not newspaper stories?

5 MR. MAY: Not stories themselves, Your Honor.

6 JUDGE SIPPEL: All right. That's what I'm concerned  
7 about. I'm concerned about the reliability of the evidence  
8 and also trying to have it focused so that, so that the record  
9 isn't too cumbersome, it doesn't get too bulky, but I -- I'm  
10 just trying to get a feel for it and you've helped me very  
11 much on this. Stipulations would be most encouraged.

12 MS. LADEN: Your Honor, I have a question. We --

13 JUDGE SIPPEL: Yes.

14 MS. LADEN: -- participate in the 307(b) aspect of  
15 the case and I was wondering, Your Honor, whether you  
16 anticipate receiving those stipulations or joint exhibits,  
17 whatever they are, on the exhibit exchange date with the other  
18 written exhibits?

19 JUDGE SIPPEL: Did you -- well, let me ask Mr.  
20 Yelverton. What did you anticipate doing with this?

21 MR. YELVERTON: Your Honor, I see no problem with  
22 that kind of evidence being exchanged with the other exhibits.

23 JUDGE SIPPEL: Well, at a minimum they would have to  
24 be made available to everybody on the, on the 24th. Beg your  
25 pardon, the 17th, --

1 MR. YELVERTON: The 17th.

2 JUDGE SIPPEL: -- 17th, which would be shortly after  
3 -- actually that will be shortly after the Bureau would be  
4 getting the preliminary engineering data, so does that, does  
5 that give you enough time?

6 MS. LADEN: Yeah, that would be fine if we get it  
7 -- if we get served -- if we get a copy of it. Sometimes when  
8 there's a stipulation that they both stipulate they forget to  
9 exchange it with the Bureau, but since we will be joining the  
10 stipulation, we will need an exchange on the exchange date of  
11 whatever is to be stipulated.

12 JUDGE SIPPEL: All right. Well, I think that's --  
13 you know, that's an excellent point. I would -- but I'll make  
14 it a point in terms of my ruling here today that I'm expecting  
15 a stipulation, and the stipulation and/or any other written  
16 evidence that the parties would seek to introduce on that  
17 issue must be exchanged or must be delivered actually to the  
18 Bureau counsel on the 17th of August. I mean, just as an  
19 aside, it's true. It's kind of redundancy to have an exchange  
20 of a stipulation for both parties to the stipulation, but --  
21 okay. Of course, of course, I would also be receiving the  
22 documentary exhibits and the proposed stipulation on that  
23 date, as well. All right. One of the issues that's, that's  
24 going to need to be litigated is whether or not Nazareth is a  
25 qualified educational organization. I'm referring to the, to

1 the Hearing Designation Order at paragraph 10, and I know that  
2 there was a related motion to add a misrepresentation issue  
3 that has been filed in a broad sense in connection with that  
4 issue, and I received the opposition from Nazareth and there's  
5 a reply due and then I'll issue a ruling on that. But I know  
6 that from your report, preconference report, that there has  
7 been an agreement for Nazareth to produce all documents which  
8 it has that refer to the proposed educational purposes of  
9 Nazareth, but I want to add to that so that it's abundantly  
10 clear. Nazareth should also be producing all documents that  
11 it will rely on as evidence to prove that it is an educational  
12 organization. That may be covered by the scope of the  
13 document production. What I'm referring to is this, is this  
14 -- it's a page of the preconference report which was submitted  
15 on June 23. It's at page 4. There's a separate page called  
16 Document Production. And at Item 2(a)(b)(c) there are  
17 descriptions of the types of documents that Nazareth will turn  
18 over which describe its educational purposes and, as I say, I  
19 just add to that another category of documents, that any and  
20 all documents that will be relied upon by Nazareth as hearing  
21 evidence to prove that it's an educational organization. Of  
22 course, I'm excluding from that work product or  
23 client/privilege material, but that which Nazareth will, will  
24 be using as evidence at the hearing to prove that it is an  
25 educational organization. Is that understood?

1           MR. MAY: It's understood, Your Honor. I guess the  
2 only question that comes to my mind is in the context of your  
3 August 17 date for the submission and exchange of the written  
4 case exhibits. Obviously whatever material we thought would  
5 be necessary to meet -- or advantageous and beneficial for us  
6 to produce as part of that and present as part of that we  
7 would certainly do so, but to the extent that there are other  
8 documents, we now understand that you intend for us to  
9 exchange those on -- I believe it's the 13th of July.

10           MR. YELVERTON: That's correct.

11           MR. MAY: Okay. And we'll certainly do that, Your  
12 Honor.

13           JUDGE SIPPEL: Well -- yeah. The reason is because  
14 of the, of the discovery. I think that it's obviously what is  
15 contemplated here. I'm closing discovery on August 10th.

16           MR. MAY: Yes.

17           JUDGE SIPPEL: And this is a very narrow -- I view  
18 this as being a very narrow issue, I view it as an issue of a  
19 technical nature, in the, in the layman's sense of that term.  
20 And it's -- the earlier the focus can be drawn to the evidence  
21 or the earlier that Mr. Yelverton can have a chance to test  
22 any other evidence that you're going to be relying upon, the  
23 cleaner the issue is going to get at the hearing as far as I'm  
24 concerned. Now, I understand that as things happen there may  
25 be some things that come up after August the 10th which -- say

1 August the 10th which is the discovery -- close of discovery.  
2 There may be some other evidence that has not been disclosed  
3 that would be included in the documents that are going to be  
4 exchanged on the 17th, and as long as it's a good faith  
5 situation, that is it's not something that's been deliberately  
6 held back from Mr. Yelverton, we'll just have to take that up  
7 as it comes, but I do know that those things do happen. What  
8 I'm saying is that any, any document other than -- again, I'm  
9 not talking about attorney work product documents or documents  
10



1 material that might otherwise address the issue that is  
2 attorney/client or attorney work product?

3 JUDGE SIPPEL: I don't see anything that -- I don't  
4 see a purpose for putting it to that burden on this kind of a  
5 discovery issue. If -- of course, you're going to be deposed.  
6 Your client's going to be deposed. And I'm sure there's going  
7 to be a lot of questions that are going to be asked about  
8 because -- about its institutional -- you know, what your  
9 client believes with respect to educational organization  
10 because that's an issue in the case.

11 MR. MAY: Yes.

12 JUDGE SIPPEL: So the breadth of the questions is  
13 going to be considerable that would be permissible in  
14 deposition under those circumstances because you've got a  
15 designated issue on it. The documents -- as I've expanded the  
16 document production, those documents to be turned over -- must  
17 be turned over in advance of the deposition. All right. How  
18 much time -- you said you're going to start deposing on the

1 deposition, if it comes up that there is a -- you know, that  
2 there are other materials that he's relying upon that he's  
3 claiming a privilege for, then, then I would -- we'll get into  
4 it at that point. But I don't see -- I think that it's, it's  
5 pushing it too far to put you to the burden of scheduling out  
6 your attorney/client privilege stuff and your work product  
7 stuff at this point without -- because I don't think that you  
8 can -- you have not reached a position yet where you're going  
9 to use that type of privileged document at the hearing. I'll  
10 be surprised to see it because you're going to waive your  
11 privilege if you use it.

12 MR. MAY: I understand and I only raised it because  
13 as trial matters go forward they take turns that sometimes  
14 require different responses and different reactions from  
15 applicants. I've certainly seen in my experience with the  
16 Commission in proceedings that it happens that it may be  
17 advantageous that under the -- lawyers are required to go  
18 ahead and do what's in the client's best interest. It's the  
19 client's privilege, but if they determine that it's  
20 advantageous for them or desirable to waive their privilege,  
21 they certainly can do so. And I just did not want to at this  
22 point in time limit that possibility and otherwise have to  
23 schedule and list all the material, so I appreciate the  
24 clarification, Your Honor.

25 JUDGE SIPPEL: All right. Mr. Yelverton, what's

1 your position?

2 MR. YELVERTON: Your Honor, I think that Toccoa  
3 Falls would be put at a disadvantage if during discovery and  
4 depositions Nazareth said we have a document. It's  
5 privileged. You can't see it. And then at the hearing see it  
6 for the first time and somehow it would tend to prove  
7 Nazareth's educational purposes. I think that would be, be  
8 unfair to -- for Nazareth to say privileged and then spring it  
9 on us at the hearing. I don't think Nazareth would, would do  
10 that but, you know, that would be the main concern we would  
11 have.

12 JUDGE SIPPEL: Well, they -- I don't see them, I  
13 don't see them getting away with it because if, under my  
14 ruling here today, if -- I'm requiring them to disclose all  
15 documents that they going to rely upon to prove, to prove the  
16 issue. I'm excluding work product material because I wouldn't  
17 be expecting that they would be using it. Now, they're saying  
18 that -- we've gone through this now. You're going to have all  
19 the documents, the universe of documents, that they're relying  
20 upon. You're going to start deposing their witness. Is that  
21 Mr. Bridges?

22 MR. YELVERTON: Yes.

23 JUDGE SIPPEL: You're going to be deposing Mr.  
24 Bridges about all these documents. You're going to ask him  
25 are there any other documents and he's going to say well, you

1 know, there's this, that and the other thing and maybe some --  
2 there'll be an objection of privilege. You get those  
3 documents identified on the record. I guess it's really just  
4 a question -- I mean, in light, in light of your first  
5 question, Mr. May, it's really just a question of whether or  
6 not you identify those documents up front or on the record.  
7 And it seems to me that, the more I'm thinking this through  
8 and talking this out with counsel here, that it would make  
9 sense to identify those documents up front at the time that  
10 you turn the documents over on the 13th of July.

11 MR. MAY: Could we distinguish between attorney work  
12 product as opposed to attorney/client material here?

13 JUDGE SIPPEL: Privileged -- the attorney/client  
14 privileged material? I think that's a reasonable distinction.  
15 Mr. Yelverton, what do you --

16 MR. YELVERTON: Yes.

17 MR. MAY: So that you would request us to schedule  
18 attorney/client material, for example, lawyer correspondence,  
19 but you would not ask us to schedule attorney work product?

20 JUDGE SIPPEL: Well, it's just the other way around.  
21 I think it's the work product that's the most significant, I  
22 would think. I mean, you know what the evidence is, but the  
23 work product is what's probably going to focus most on the  
24 issue and on the, and on the -- well, this is going to be --  
25 let me take this back. These are going to be thoughts of

1 attorneys after -- you're going to analyze the evidence, you  
2 know, put it down in a work product form, as opposed to the  
3 objective documents which you're going to be passing back and  
4 forth.

5 MR. MAY: I guess where I was trying to go with it,  
6 Your Honor, is as to the way in which the material might  
7 unfold or the existence of the material might unfold during  
8 the deposition session and that would be something that  
9 clearly if it was memorialized in correspondence and,  
10 therefore, being attorney/client privileged, the client's  
11 going to know about it. He may or may not know about the  
12 document which is attorney work product --

13 JUDGE SIPPEL: Then obviously if he doesn't know  
14 about it, then he's not -- that would not be a document that  
15 he'd have to disclose.

16 MR. MAY: But he may know about the substance of it,  
17 that having been communicated to him, so he could communicate  
18 as to the substance, but not as to the existence of the, the  
19 documents as such. There's just that subtle distinction.

20 JUDGE SIPPEL: Well, it's a very important  
21 distinction, though. If there's a document in the attorney's  
22 file that the attorney has worked on -- I mean, we've all done  
23 this frequently. You sketch out -- it may be on a yellow  
24 sheet of paper. It may be issues sketched out with evidence  
25 noted and what people may or may not say about it, and the

1 client doesn't know that you've got that put in your file.  
2 No, that's not the type of document that I'm talking about.  
3 I'm talking about something that the client in the proof of  
4 the case would be relying upon to prove that this is an  
5 educational organization. Now, as I say, the documents, the  
6 -- other than privileged documents, all the documents need to  
7 be turned over on the 13th of July. If there are some  
8 documents that are being held back that the client knows about  
9 and that he might be relying upon that are privileged, then  
10 it's just the traditional identification of the document. You  
11 know, who authored it, who was it sent to, what the date was  
12 and what was the, the general subject of the, of the item?

13 MR. MAY: Okay. We'll schedule it.

14 JUDGE SIPPEL: All right.

15 MR. MAY: Yes, sir.

16 JUDGE SIPPEL: Now, that should, that should move  
17 the discovery phase of this along considerably I think and  
18 also avoid any surprise at the hearing without -- again,  
19 without intruding on, on privilege and, of course, if -- and  
20 then again if the -- if a showing of substantial need can be  
21 shown for that evidence, I'll look at it in camera. We can go  
22 by motion if need be, but -- or, on the other hand, you will,  
23 you will reserve the right to use this. This might -- some of  
24 this evidence might show up on the exchange date. I mean,  
25 some of the privileged things may show up on the exchange

1 date, but you waived the privilege. Now, if they show up on  
2 the day of the hearing, unless it's used as a -- you know, as  
3 a -- well, I can't see how you're going to rebut your own  
4 witnesses, but if it shows up for the first time on the date  
5 of the hearing, then you've got a real problem. Okay?

6 MR. MAY: Yes, sir. To the extent that we schedule  
7 then, we won't produce those documents. If Mr. Yelverton and  
8 his client feel they need them, am I to understand that  
9 they'll have to file motions for them?

10 JUDGE SIPPEL: No, I'm talking about only the  
11 documents that are -- that you're listing that are privileged  
12 documents. I'm not talking -- there's this -- there's two  
13 categories of documents that we're talking about that you have  
14 to be able to account for on the 13th of July. Okay. The  
15 first is the non-privileged documents that would be -- that  
16 will be relied upon by Nazareth to prove that it is an  
17 educational organization to the extent that those documents  
18 are not incorporated in the list that was attached to the  
19 preconference report. Now, that's category number 1.  
20 Category number 2 would be those documents that the client  
21 would be relying upon to come to the conclusion that it's an  
22 educational organization, but they're privileged. Now, those  
23 you don't have to produce on the 13th. Those you have to list  
24 with the description that I've indicated. All right?

25 MR. MAY: Yes, sir.

1 JUDGE SIPPEL: And then if in the course of the  
2 deposition or through other discovery or through whatever may  
3 happen Mr. Yelverton decides that there really -- that he can  
4 meet the standard of a substantial need for that evidence and  
5 files a motion, I'll consider the documents in camera and make  
6 a ruling on it or, you know, one, two or several of the  
7 documents, whatever. But you're going to have to make a  
8 showing of substantial need to overcome the privilege. Okay?  
9 Or a waiver, of course. I mean, if you think there's been a  
10 waiver that's come up. That's normally the route that --  
11 well, both routes are taken. All right? Is there any  
12 misunderstanding or any, any questions about that?

13 MR. YELVERTON: I have none, Your Honor.

14 JUDGE SIPPEL: Okay.

15 MR. MAY: None, Your Honor.

16 JUDGE SIPPEL: I think that's all that I have. You  
17 have all the dates that have been set out in the Prehearing  
18 Conference Order. We're expecting to go forward with the  
19 hearing on the 28th of September. I'm expecting on the 21st  
20 that there will be a joint engineering exhibit and everything  
21 else is -- seems to me is very straight forward. I will -- as  
22 shortly as possible after the reply pleading comes in I'll  
23 rule on that motion, and I think certainly that covers  
24 everything that was on my schedule today. Does anybody have  
25 anything more?



1 MR. YELVERTON: I have no further questions.

2 JUDGE SIPPEL: Okay.

3 MR. MAY: None, Your Honor.

4 JUDGE SIPPEL: Nothing? All right. Then we are in  
5 recess until the 28th of September unless there's another  
6 conference ordered by myself. Thank you very much.

7 MR. YELVERTON: Thank you, Your Honor.

8 MR. MAY: Thank you, Your Honor.

9 (Whereupon, the conference was adjourned at 9:36  
10 a.m.).

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